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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,572	05/19/2005	Kinzo Kishida	P1128US	7517
1218	7590	08/29/2007		
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			EXAMINER LIVEDALEN, BRIAN J	
			ART UNIT 2878	PAPER NUMBER
			MAIL DATE 08/29/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/535,572

Applicant(s)

KISHIDA ET AL.

Examiner

Brian J. Livedalen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 6-20 is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/16/2007.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This action is in response to amendment filed 7/16/2007. Claims 1 and 3-20 are pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sahlin et al. (20030063888).

In regard to claim 1, Sahlin discloses (fig. 6) an optical fiber measuring module to be laid on a structure for measuring at least one physical quantity: an optical fiber cable (130); a base member (118) for fixedly holding the optical fiber cable, and an attachment member (112) for attaching the base member to the structure wherein the base member is configured for being attachable to the attachment member while the base member is fixedly holding the optical fiber cable (page 2, paragraphs 0027, 0028); an attaching device (page 3, paragraph 0031) provided between the attachment member and the structure for attaching the attachment member to the structure, and a locking device (104, 106) provided between the base member and the attachment member for locking the base member in the attachment member (page 2, paragraph 0028).

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In regard to claim 3, Sahlin discloses (fig. 6) that the attachment device includes an adhering layer (page 3, paragraph 0031) provided on the attachment member and made of an adhesive or welding agent for adhering the attachment member to the structure.

In regard to claim 5, Sahlin discloses that the locking device locks the base member in the attachment member by the engagement of engaging portions (104, 106) provided at the base member with locking portions (128) provided at the attachment member (page 3, paragraph 0029).

#### ***Allowable Subject Matter***

Claims 4 and 6-20 are allowed.

The following is an examiner's statement of reasons for allowance: Claims 4 and 6-20 are neither anticipated nor made obvious by the prior art of record.

Claims 4, 6, 9, and 17 are allowed for the reasons set forth in the previous office action dated 5/16/2006.

Claims 7, 8, 10-16, 19, and 20 are allowed for the reasons set forth in the previous office action dated 4/26/2007.

#### ***Response to Arguments***

Applicant's arguments filed 7/16/2007 have been fully considered but they are not persuasive.

Applicant asserts that Sahlin fails to disclose "a base member for fixedly holding the optical fiber cable." Applicant supports this position with the argument that a person skilled in the art would provide a special definition to "fixedly held," obviating the application of Sahlin. Although this special definition may be accorded to a person in the optical fiber measuring art, the proper definition would not be limited to such a specific art because the body of the claim does not limit the fiber holder to such a system. As discussed in the office action dated 9/29/2006, the preamble is not given patentable weight. See page 7. Webster's dictionary defines "fixed" as: securely placed or fastened. Sahlin explicitly discloses components (136, 138) of the fiber support member (102) so that "the channel 100 will hold light fiber 130 more securely than prior art channels." See paragraph 0034. Sahlin's fiber is securely held by the fiber support member and is therefore fixedly held. Absolute and permanent fastening is not required. In light of the above arguments, the rejection stands as proper.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Livedalen whose telephone number is (571) 272-2715. The examiner can normally be reached on 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bjl

  
Georgia Epps  
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